

**DISCUSSION PAPER ON
NEW HERITAGE
LEGISLATION FOR MANITOBA**

OCTOBER, 1984

**Manitoba
Culture, Heritage
and Recreation**

**Historic
Resources
Branch**

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Minister**



NEW HERITAGE LEGISLATION FOR MANITOBA

WHAT IS PROPOSED?

The Government of Manitoba is considering new provincial legislation for the protection and commemoration of Manitoba's heritage.

WHY IS THIS NEW LEGISLATION PROPOSED?

Our present heritage legislation, the Historic Sites and Objects Act, is 17 years old and does not meet the current needs of Manitobans. Compared with similar legislation across the country, it has many deficiencies. For instance, a planning process is required which ensures that heritage values are duly considered when land development threatens heritage sites and buildings. The current legislation must be strengthened and expanded to adequately protect heritage sites, buildings and objects which are of significance to all Manitobans and to establish a review process with public involvement when provincial historic sites are created. Finally, new legislation would provide Manitobans with a process to identify and encourage local involvement in local heritage issues and education.

HOW WILL THESE CONCERNS BE ADDRESSED?

The proposals that follow would establish a planning process to address activities which may affect heritage sites, structures and objects. They offer greater protection to heritage resources of provincial importance and would establish a review process, including direct public involvement in decision-making. They enable and encourage local governments, groups and individuals to be actively involved in the preservation and commemoration of local heritage resources.

WHO WILL BENEFIT?

All Manitobans will benefit from this increased activity in preserving and enhancing resources as well as themes which lie at the very roots of our collective heritage and past. All Manitobans will benefit from the employment and economic opportunities which are part of an active heritage preservation movement.

HOW CAN YOU BE INVOLVED IN THIS PROCESS?

By reading the following information; by considering and discussing what you consider is required to enhance and preserve heritage; by completing the attached questionnaire and thus contributing to the development of new heritage legislation.

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A nation cannot separate itself from its past any more than a river can separate itself from its source, or sap from the soil whence it arises. No generation is self-sufficient.

- Canon Lionel Groulx

I INTRODUCTION

A) Why Heritage Preservation?

The traditions, values and achievements of past generations provide a means of understanding the nation as it presently exists. They offer us the wherewithal for examining and evaluating both our progress and the promise of the future. There have perhaps been few other ages when heritage has been so neglected and yet so necessary.

The known cultural heritage of Manitoba goes back at least 12,000 years. Yet it is within the last three centuries that our province has changed from one of hunters and gatherers to harvesters, to an industrial society and, now, to a society on the edge of post-industrial technological change. We are a province which has experienced immigration and settlement by a rich variety of ethnic populations, each adding elements to those of the Indian and Métis peoples to create our own unique society. The ever present influence of global culture is now so intensified in this age of television and mass media, that the building of a cohesive, integrated sense of purpose and identity based on our own heritage is becoming increasingly difficult.

Our sense of identity is undermined as the visible remains of past achievements are allowed to decay and be destroyed, or are simply ignored and forgotten. As the pace of change in our society accelerates, our need to comprehend and come to terms with that change becomes all the more crucial. We must not lose touch with the struggles and triumphs we have inherited from past generations. Whether they are remembered historic events, treasured artifacts, humble or magnificent buildings, or significant sites, the physical remnants and values of our past are rich resources to be protected and enhanced. They are indeed an integral part of our society and a resource offering both solace and inspiration. They are an inheritance and a trust to be passed on to future generations.



Proper management of heritage resources, backed by sound legislation, allows Manitobans to reconstruct the ancient past.

B) Heritage Preservation Pays

Studies in Canada have shown that historical and cultural attractions figure most prominently in tourist spending across the country, generating hundreds of millions of dollars annually and accounting for nearly one third of all tourist dollars spent each year. For example, in Manitoba, 100,000 visitors tour Lower Fort Garry National Historic Park every year. Heritage sites will also encourage visitors to stay longer and spend more in the local community. Rough estimates of the spin-off effect of tourist dollars are usually made with multipliers ranging from about 1.5 to 2.5. In other words, for every \$1.00 directly spent in a local community, between \$1.50 and \$2.50 in resultant wages, sales and taxes can also be expected.

The rehabilitation of historic buildings offers additional benefits to the community. The Canadian building rehabilitation industry is estimated to be a \$4.5 billion business in 1985. Building rehabilitation is usually 25% more labour intensive than new construction. In American cities

where large-scale rehabilitation projects have taken place, property values have jumped 10-49% and retail sales increased anywhere from 16% to 125%. In the Gastown area of Vancouver, property sales prices, on average, increased 98% (adjusted for inflation) between 1966 and 1977. As these statistics show, rehabilitation offers potentially large economic and employment benefits to the province in addition to the preservation of our heritage and the enhancement of our neighbourhood environments.



Public celebrations and ceremonies at the preservation of an historic Manitoba building.

C) Heritage and the Public

Manitoba has long been concerned for its heritage, as demonstrated by the establishment of the Historical and Scientific Society of Manitoba only nine years after the creation of the province. In more recent years, the centennial celebrations for both our country in 1967 and province in 1970 spurred the development of museums, archives, historical societies and heritage parks across the country and province. Examples show the positive progress in recent years. In 1967, Manitoba proclaimed the Historic Sites and Objects Act, to foster and direct the protection of heritage resources such as archaeological or historic sites, artifacts and buildings. In 1974, the Historic Resources Branch, which administers this Act, was created to enhance community and provincial identities by providing leadership and support for the understanding and

appreciation of Manitoba's heritage. In 1977, the City of Winnipeg adopted a by-law for the preservation of historic buildings and with strong public support commenced a building preservation program with the historic designation of the threatened Bank of Commerce building and Bank of Hamilton building. Archaeological programs carried out most notably at Southern Indian Lake in the north and along the Winnipeg River in the south have contributed substantially to our grasp of Manitoba's prehistoric past. In recent years over 100 groups have formed to research, write and publish histories of their communities.

At the same time, much has been irrevocably lost. There has been little demand or activity to enact legislation or establish comprehensive programs to protect heritage resources at the local level. Too many important buildings have been demolished. Archaeological sites have been destroyed by land development and the artifacts and information associated with them lost. Many individuals and themes which are the basis of our understanding of ourselves and society remain unresearched and little understood. In both Saskatchewan and British Columbia local governments have successfully acted with local sponsors to preserve their heritage resources.

In concert with the trend towards newer and stronger legislation which now exists in other provinces, it is time to examine our current needs and the existing legislation, and to determine what changes are required to meet the challenges and demands we are now facing.



The price of inadequate planning, public education and protective mechanisms for our irreplaceable heritage is its loss.

II OBJECTIVES OF THE PROPOSED NEW HERITAGE LEGISLATION

The proposed new heritage legislation will address the specific, identified limitations in the existing act. More important, the growth of the heritage movement in this province over the last decade has demonstrated the need for broader protective measures and greater participation by the public and local governments in developing the provincial and community heritage resources of Manitoba. Addressing these needs is the guiding principle of the proposed new legislation. We need protective measures to identify, evaluate, monitor, designate and develop heritage resources. We have to limit crisis situations and the needless destruction of sites, structures and artifacts because of a lack of awareness of their worth and of their potential for sympathetic redevelopment or inclusion in new construction. The encouragement of municipal authorities to participate actively in heritage resource planning and management is also required if we are to build a network of mutual co-operation and liaison in protecting Manitoba's significant resources. This would maximize the number and quality of such resources that are retained for posterity. More public education about the province's rich cultural inheritance is desirable; this can be accomplished by providing detailed information on the legal steps or procedures involved in protecting heritage resources in which the public is encouraged to participate. As well, the proposed new legislation will encourage individuals and interested organizations to conserve, interpret and commemorate our collective past. An advisory board will continue to make recommendations to the Minister on such proposals.

III PROVISIONS FOR PROTECTION

A) Impact Assessment and Mitigation

Impact assessments provide an orderly means of managing heritage resources, in which planning is a fundamental ingredient. It is already common practice for parties involved in major developments to assess the environmental and social impacts of their projects. Impacts on heritage resources increasingly should be part of these processes.

A heritage resource impact assessment is an evaluation of how a heritage resource may be adversely affected or changed by development. The criteria used to determine whether an impact assessment is required include the following:

1. Previous land use activity which may preclude any useful assessment work in the locale;

2. Presence or absence of known heritage resources and their condition;
3. Environmental factors, such as local soil drainage, topography, elevation, slope, exposure, vegetation, presence or absence of standing or running water, soil composition, etc., that may have been considered by early peoples in their selection of habitation sites or activities areas.

In short, impact assessments would afford a means of protecting and preserving heritage resources affected by major land development or threatened by neglect. For example, any person, corporation or government agency undertaking major land development in an area of known archaeological and paleontological resources, or areas of high heritage resource potential, may be required to show what changes in the landscape may take place as a consequence of the project. The Minister can then determine whether the developer should be required to conduct an impact assessment.

Depending upon the results of the impact assessment, the developer may be called upon to "mitigate" the impact upon identified archaeological and paleontological resources. It is important to emphasize that such activities need not be expensive. In Alberta, for example, where the program is most highly developed, 99% of the impact assessment/mitigation projects undertaken between 1974 and 1982 cost less than \$10,000.00. Experience elsewhere has shown that budgeting up to 1% of the capital costs for such purposes is generally more than adequate to protect or rescue the resource.



Proper planning, made possible under the new legislation, should minimize the need for last minute salvage efforts like this.

B) Ownership of Heritage Objects

In order to have effective provision for impact assessment and mitigation, the heritage objects that exist on private land would necessarily become Crown property upon enactment of the proposed legislation. This is compatible with the situation in Alberta and Saskatchewan, where impact assessment and mitigation are routine activities. It also reflects the UNESCO resolutions of 1958 which advocated public ownership of all archaeological material. However, under certain conditions, Crown ownership could be waived.

Heritage objects, most particularly archaeological specimens, frequently come to light unexpectedly due to natural erosion, or because they are sought after by local residents and amateur archaeologists, in which case collections of them are assembled. In keeping with the current trend of increasing cooperation with local residents, amateur archaeologists, and land owners, the new legislation must serve individual and personal interests as well as the public at large.

It is therefore proposed that

1. while archaeological and paleontological objects situated on or under any land in Manitoba (except for federal lands or Indian reserves) should become Crown property once the new Act comes into effect;
2. the Minister may waive Crown ownership and transfer legal ownership to a private owner, association, or local government authority; or
3. the Minister may grant possession to a private party, association or local government authority on a "permanent loan" basis for as long as they can properly care for the objects.



The new heritage legislation must ensure that the relationship between provincial archaeologists and the interested and involved public continues to be a positive and mutually beneficial one.

C) Designation of Sites

In order to adequately identify and preserve rare, outstanding, or representative heritage resources, the new heritage legislation must provide for the selection of potential sites, an orderly and public process for their consideration, protection while they are being considered, and the right of anyone to appeal. To show leadership in heritage planning and preservation, the legislation will be binding on the Crown.

The Lieutenant Governor in Council will be enabled to designate by regulation as a heritage site any historic area, natural area, building or structure that, in the Minister's opinion, is either representative or an outstanding example of historic or prehistoric development of the province and its peoples. Municipal governments will also be empowered to legally protect heritage sites and structures.

RIGHT OF APPEAL - Requests can come from the public, local governments, groups and agencies with a concern for the preservation of heritage, or consideration may be initiated by members of the heritage advisory board or by the Minister. To ensure a clear process for the designation of provincial historic sites, the legislation will describe the process for the designation, as well as the repeal of designations. The owner and tenants of the property will be notified of any proposed designations and notice will also be posted in suitable newspapers. Should the owner, a group or an individual object to the proposed designation, a review board will have a public hearing with participation of all concerned groups. Following the hearing, the review board will submit their findings to the Minister. Similar appeal provisions will be included for requests to repeal a designation.



Stronger heritage legislation with a public process for creating historic sites will increasingly preserve and commemorate important remnants of our past.

PERMITS - To ensure the preservation of designated heritage sites, the legislation will provide for the issuing of permits to allow sympathetic alterations, modifications, additions and development.

Furthermore, standards must be maintained concerning the excavation of buried archaeological deposits and the collection of artifacts from the surface, whether on public or private land. This should ensure that the removal of objects is done in a proper fashion and that every find is well documented. The context of an artifact is as important as the artifact itself. If field work is not done carefully, that information may become lost. A permit system ensures that findings are duly reported to a central agency so that the results can be incorporated into scientific and popular works and displays.

The 12,000-year-long human history of the province is part of the heritage of all Manitobans, and hence the government has a responsibility to encourage the retention of heritage objects in Manitoba. Consequently, the removal of artifacts, skeletal remains and paleontological objects from the province will be regulated by a permit system.

D) Incentives

Consideration should be given to positive programs of incentives for heritage preservation. Incentive provisions in the legislation would be general to allow for future possible programs of initiatives which may include grants, cost sharing agreements, tax incentives, provincial acquisition, technical assistance and development plans.

E) Gifts and Bequests

The people of Manitoba can help to preserve Manitoba's heritage by bequests of personal or real property, or monies in trust, to the Crown. Therefore, consideration will be given to provisions for the Crown to receive such gifts. Under the terms of the federal Income Tax Act these gifts will be tax-deductible.



That which has been lost should not be forgotten. Historic events will continue to be investigated and commemorated under the new heritage legislation. (Photo courtesy of Manitoba Archives.)

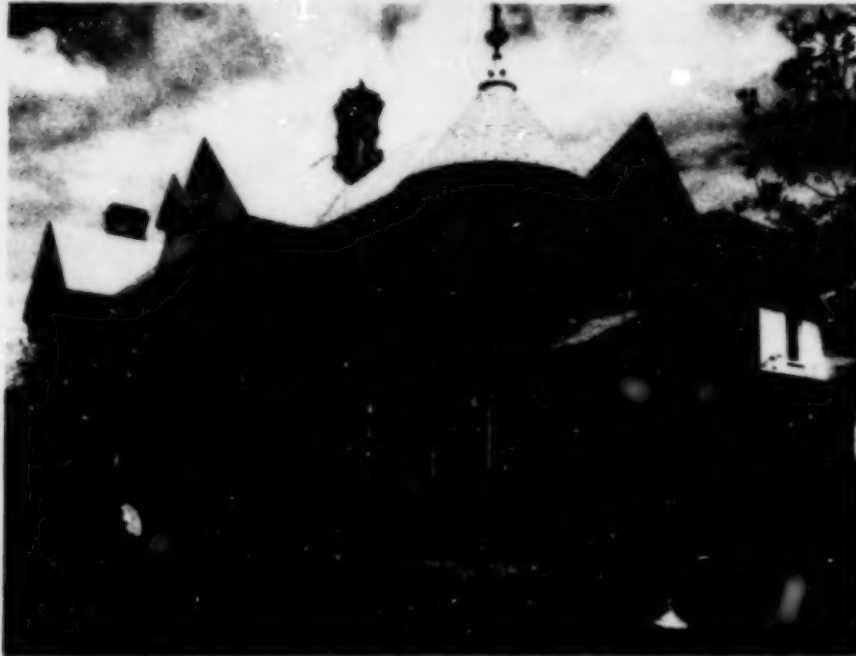
F) Legislative Authority

Consideration should be given to protecting heritage sites when other means of negotiation and incentives have failed. Such measures could include: legal action that requires an owner to restore a heritage site which has been allowed to become damaged or derelict; stop work orders where work in progress may damage a designated heritage site or potential heritage site; the right of inspection where there is reason to believe that a designated or potential heritage site may be damaged or harmed by an activity or through dereliction; and expropriation of a designated heritage site. Fines for breaches of the Act which are comparable to those in other provinces should also be considered.

G) Registered Sites

To ensure the protection and orderly consideration of sites or areas that may become designated heritage sites or might at a future time require mitigative measures, provision should be made for the registration of any area, building, or structure that, in the Minister's opinion, is of potential significance as a representative or an outstanding example of the historic or prehistoric development of the province and its peoples or cultures. Registration will require that the owner of the site notify the Minister of his intention to excavate, alter or demolish any historic resource, or remove any heritage object from a registered heritage site. A set period of time will then be allotted to determine if:

- 1) the proposed work should proceed, or
- 2) mitigative measures should be undertaken, or
- 3) the site should be designated a heritage site under the Act.



There is a rich legacy from our forefathers to preserve and pass on to future generations.

H) Municipal Powers

The legislation will encourage municipal governments to protect heritage resources of regional and local significance by allocating powers similar to those of the provincial government. Local governments will be able to establish their own heritage advisory boards, designate sites and engage in education programs.

I) Education/Public Awareness

All of us will benefit from the protection and interpretation of the province's heritage. A major aim of the new heritage legislation is to enhance the means by which everyone can participate in commemorating, interpreting and reflecting on their history. The legislation therefore will encourage consultation with public groups in the development of heritage projects.



The new legislation will ensure that representative sites, and themes such as this 1930's coal mine, are commemorated/protected as historic sites by the province or municipal authorities. (Photo courtesy of Manitoba Archives.)

IV CONCLUSION

The Manitoba Government considers it essential that consultation with groups and individuals regarding the new heritage legislation be conducted to elicit Manitobans' views and broaden understanding of heritage issues before final drafting, tabling and discussion of the bill in the Legislature. The objective of the consultation process is to allow all those interested to express their opinions on these issues. Manitobans can and should participate in the development of meaningful legislation which can broaden the knowledge of our past. I welcome your input!

Eugene Kostyra,
Minister of Manitoba Culture,
Heritage and Recreation

For further information, please contact:

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DEFINITIONS

Artifact means an object:

- 1) that is the product of human art, workmanship or use, including plant and animal remains that have been modified by or deposited due to human activities;
- 2) that is of value primarily for its historic or archaeological significance; and
- 3) that is or has been discovered above, on or beneath land in Manitoba, or submerged or partially submerged by water in Manitoba.

Dereliction means the intentional neglect or abandonment of a designated historic site or structure causing its deterioration.

Heritage Object includes an artifact, a paleontological object and skeletal remains.

Heritage Resource means any work of nature or of man that is of interest primarily for its prehistorical, historical, cultural, natural, scientific or aesthetic value including, but not limited to, a heritage object, a structure or a prehistorical, historical or natural site.

Impact Assessment means a written assessment showing the impact that proposed work or a proposed development project is likely to have upon heritage resources.

Mitigation refers to any steps or procedures used to reduce or eliminate the impact of a development on heritage resources.

Paleontological Object means the remains, or fossil, or other object indicating the existence of extinct or prehistoric animals or plants but does not include skeletal remains.

Skeletal Remains refers to remains of human bodies situated or discovered outside a recognized cemetery or burial ground in which there is some manner of identifying the persons buried therein.

MANITOBA HERITAGE LEGISLATION SURVEY

Manitoba
Culture, Heritage
and Recreation



The Manitoba Government is interested in learning what Manitobans think about heritage issues and new heritage legislation for the province. Please read the discussion paper before answering the following questions. Although the questions will only take 10 minutes of your time, your answers are very important in helping to ensure that our heritage legislation will reflect the needs and wishes of Manitobans.

Thank you for your co-operation.

Please be kind enough to return the questionnaire as soon as possible.

Address and postage are provided. Please fold and tape.

- Do you agree with the proposals contained in the "Discussion Paper on New Heritage Legislation For Manitoba" regarding the following issues :

	YES	NO	COMMENTS
A. Impact Assessments	☐	☐	
B. Mitigation	☐	☐	
C. Ownership of Heritage Objects	☐	☐	
D. Designation of sites	☐	☐	
E. Right of Appeal	☐	☐	
F. Permits for altering designated sites	☐	☐	
G. Permits for archeological field work	☐	☐	
H. Permits for removal of heritage objects from the Province	☐	☐	
I. Incentives	☐	☐	
J. Gifts and Bequests	☐	☐	
K. Legislative Authority	☐	☐	
L. Registered Sites	☐	☐	
M. Municipal Powers	☐	☐	
N. Education and Public Awareness	☐	☐	

Second
Fold

First
Fold

2. Are you in agreement with the reasons for revising the legislation?

☐ YES WHY? _____

☐ NO WHY? _____

3. Which three areas listed in question 1 would you like to see emphasized?

i)

ii)

iii)

4. Do you feel that Manitobans in general are aware of the history and cultural heritage of their province?

very aware

not aware
at all

☐ ☐ ☐ ☐ ☐ ☐

5. In general, do you think there is enough information available on heritage themes and issues about Manitoba?

☐ YES WHY? _____

☐ NO WHY? _____

6. Indicate in order of priority (1, 2, 3), what you think is the most practical way of preventing the continued destruction of Manitoba heritage sites?

☐ Incentives for purchase, maintenance and rehabilitation

☐ Legal protection, including fines for destruction

☐ Public education and awareness campaign

7. Do you think the Government should spend on heritage?

more ☐ less ☐ the same ☐

Why _____

8. Do you belong to any or all of the following types of organizations ?

- ☐ Museums _____
- ☐ Historical Societies or organizations _____
- ☐ Archaeological societies _____
- ☐ Other related heritage or cultural organizations. Please specify :

9. Place of residence :

- | | |
|---|---|
| ☐ Winnipeg | ☐ Village |
| ☐ City other than Winnipeg | ☐ Rural |
| ☐ Town | ☐ Outside Manitoba |

10. Age Category :

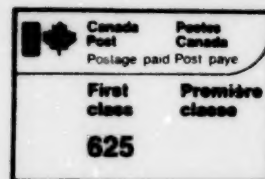
- | | |
|---|--------------------------------------|
| ☐ Under 18 years | ☐ 35 - 64 |
| ☐ 18 - 34 | ☐ 65 and over |

11. From what perspective are you answering this questionnaire :

- | | |
|--|---|
| ☐ Government official | ☐ Concerned citizen |
| ☐ Entrepreneur | ☐ Other (specify)
_____ |

12. Comments

NO POSTAGE NECESSARY



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